

PENAP, APPEAL

**U.S. Bankruptcy Court
Southern District of New York (Manhattan)
Adversary Proceeding #: 17-01101-scc**

Assigned to: Judge Shelley C. Chapman

Date Filed: 07/28/17

Lead BK Case: 17-10466

Lead BK Title: Runway Liquidation Holdings, LLC, et al.

Lead BK Chapter: 11

Demand:

Nature[s] of Suit: 11 Recovery of money/property – 542 turnover of property

Plaintiff

BCBG Max Azria Group, LLC

2761 Fruitland Avenue

Vernon, CA 90058

Tax ID / EIN: 95-4255942

TERMINATED: 09/28/2017

represented by **Robert J. Feinstein**

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LEAD ATTORNEY

Plaintiff

Runway Liquidation, LLC
2761 Fruitland Avenue
Vernon, CA 90058
Tax ID / EIN: 95-4255942
TERMINATED: 09/28/2017

represented by **Runway Liquidation, LLC**
PRO SE

Plaintiff

Runway Liquidation, LLC
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represented by **Steven William Golden**
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Joshua Sussberg
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LEAD ATTORNEY

Plaintiff

David MacGreevey, in his capacity as Plan Administrator

represented by **Beth E. Levine**
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V.

Defendant

NYAM LLC

represented by **Katherine Good**
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Filing Date	#	Docket Text
07/28/2017	<u>1</u>	Adversary case 17-01101. Complaint against NYAM LLC (Fee Amount \$ 350.). Nature(s) of Suit: (11 (Recovery of money/property – 542 turnover of property)) Filed by Yates M. French, Joshua Sussberg, Stephen C. Hackney on behalf of BCBG Max Azria Group, LLC. (Sussberg, Joshua) (Entered: 07/28/2017)
08/01/2017	<u>2</u>	Summons with Notice of Pre-Trial Conference issued by Clerk's Office with Pre-Trial Conference set for 9/28/2017 at 10:00 AM at Courtroom 623 (SCC), Answer due by 8/31/2017, (Ortiz, Carmen) (Entered: 08/01/2017)
08/31/2017	<u>3</u>	Answer to Complaint (Related Doc # <u>1</u>) (related document(s) <u>1</u>) filed by Katherine Good on behalf of NYAM LLC. (Attachments: # <u>1</u> Certificate of Service)(Good, Katherine) (Entered: 08/31/2017)
05/24/2018	<u>15</u>	Transcript regarding Hearing Held on 5/23/2018 10:04 AM RE: Pre-Trial Conference. Remote electronic access to the transcript is restricted until 8/22/2018. The transcript may be viewed at the Bankruptcy Court Clerks Office. [Transcription Service Agency: Veritext Legal Solutions.]. (See the Courts Website for contact information for the Transcription Service Agency.). Notice of Intent to Request Redaction Deadline Due By 5/31/2018. Statement of Redaction Request Due By 6/14/2018. Redacted Transcript Submission Due By 6/25/2018. Transcript access will be restricted through 8/22/2018. (Ortiz, Carmen) (Entered: 05/25/2018)
05/29/2018	<u>16</u>	Statement / <i>Notice of Plaintiff Name Change</i> filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Levine, Beth) (Entered: 05/29/2018)
05/31/2018	<u>17</u>	Initial Pretrial Order signed on 5/31/2018 (White, Greg) (Entered: 05/31/2018)
08/30/2018	<u>18</u>	Amended Initial Pre-Trial Order signed on 8/30/2018 (related document(s) <u>17</u>) (White, Greg) (Entered: 08/30/2018)
09/18/2018	<u>19</u>	<i>Letter Requesting a Pre-Motion Conference Pursuant to Bankruptcy Local Rule 7056-1(a)</i> Filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Levine, Beth) (Entered: 09/18/2018)
09/27/2018	<u>20</u>	<i>Letter Responding to Request for a Pre-Motion Conference</i> (related document(s) <u>19</u>) Filed by Michael D. Hamersky on behalf of NYAM LLC. (Hamersky, Michael) (Entered: 09/27/2018)
11/05/2018	<u>21</u>	<i>Letter / Supplement to Letter Requesting a Pre-Motion Conference and in response to Letter Responding to Request for a Pre-Motion Conference</i> (related document(s) <u>20</u> , <u>19</u>) Filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Levine, Beth) (Entered: 11/05/2018)
11/07/2018	<u>22</u>	Memorandum Endorsed Order Granting Plaintiff's Request for a Pre-Motion Conference at 2:00 p.m. on November 13, 2018 signed on 11/7/2018 (related document(s) <u>21</u>) (White, Greg) (Entered: 11/07/2018)

11/19/2018	<u>23</u>	So Ordered Scheduling Stipulation Relating to Motions for Summary Judgment signed on 11/19/2018; with hearing to be held on 1/17/2019 at 02:00 PM at Courtroom 623 (SCC) (White, Greg) (Entered: 11/19/2018)
11/20/2018	<u>24</u>	Motion for Summary Judgment / <i>Notice of Hearing on Plaintiffs Motion For Partial Summary Judgment</i> filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. with hearing to be held on 1/17/2019 at 02:00 PM at Courtroom 623 (SCC) Responses due by 12/18/2018, (Levine, Beth) (Entered: 11/20/2018)
11/20/2018	<u>25</u>	Memorandum of Law <i>in Support of Plaintiff's Motion For Partial Summary Judgment</i> (related document(s) <u>24</u>) filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. Objections due by 12/18/2018, (Levine, Beth) (Entered: 11/20/2018)
11/20/2018	<u>26</u>	Statement of Undisputed Facts / <i>Plaintiff's Statement Pursuant to Local Rule 7056-1 of Material Facts as to Which There Are No Genuine Issues to be Tried</i> Filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. Objections due by 12/18/2018, (Levine, Beth) (Entered: 11/20/2018)
11/20/2018	<u>27</u>	Declaration of <i>Beth Levine in Support of Plaintiff's Motion For Partial Summary Judgment</i> (related document(s) <u>25</u> , <u>24</u> , <u>26</u>) filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Attachments: # <u>1</u> Exhibit A – Letter Agreement # <u>2</u> Exhibit B – Factoring Agreement # <u>3</u> Exhibit C – License Agreement # <u>4</u> Exhibit D – Fleming Declaration # <u>5</u> Exhibit E – Fleming Deposition Transcript # <u>6</u> Exhibit F – Response # <u>7</u> Exhibit G – NYAM Claim # <u>8</u> Exhibit H – NYAM Assignments) (Levine, Beth) (Entered: 11/20/2018)
12/13/2018	<u>29</u>	So Ordered Amended Scheduling Stipulation Relating to Motions for Summary Judgment signed on 12/12/2018 (White, Greg) (Entered: 12/13/2018)
12/28/2018	<u>30</u>	Response to Motion <i>Plaintiff's Motion for Partial Summary Judgment</i> filed by Michael D. Hamersky on behalf of NYAM LLC. with hearing to be held on 3/5/2019 at 02:00 PM at Courtroom 623 (SCC) Reply due by 2/1/2019, (Attachments: # <u>1</u> Notice of Defendant NYAM, LLC's Cross-Motion for Summary Judgment # <u>2</u> Declaration of Michael Hamersky In Support of Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment and In Support of It's Cross Motion for Summary Judgment with Supporting Exhibits # <u>3</u> Defendant's Response to Plaintiff's Statement Pursuant to Local Rule 7056-1 of Material Facts and Statements Pursuant to Local Rule 7056-1 In Support of Defendant's Cross-Motion for Summary Judgment) (Hamersky, Michael) (Entered: 12/28/2018)
01/18/2019	<u>31</u>	Memorandum of Law <i>in Further Support of Plaintiff's Motion for Partial Summary Judgment and in Opposition to Defendant's Cross-Motion for Summary Judgment</i> (related document(s) <u>30</u> , <u>25</u>) filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Levine, Beth) (Entered: 01/18/2019)
01/18/2019	<u>32</u>	Counterstatement of Undisputed Fact / <i>Plaintiff's Response to Defendant's Statement Pursuant to Local Rule 7056-1 of Material Facts as to Which There are No Genuine Issues to be Tried in Support of its Cross-Motion for Summary Judgment</i> (related document(s) <u>30</u>) filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Levine, Beth) (Entered: 01/18/2019)

01/18/2019	<u>33</u>	Declaration of Beth Levine in Further Support of Plaintiff's Motion for Partial Summary Judgment and in Opposition to Defendant's Cross-Motion for Summary Judgment (related document(s) <u>30</u> , <u>25</u>) filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Attachments: # <u>1</u> Exhibit A Chart # <u>2</u> Exhibit B – First Prior Fleming Declaration # <u>3</u> Exhibit C – Second Prior Fleming Declaration # <u>4</u> Exhibit D – Fleming Deposition Transcript) (Levine, Beth) (Entered: 01/18/2019)
01/31/2019	<u>35</u>	Reply to Motion Defendant's Reply Memorandum of Law in Further Support of Defendant's Cross Motion For Summary Judgment filed by Michael D. Hamersky on behalf of NYAM LLC. (Hamersky, Michael) (Entered: 01/31/2019)
03/06/2019	<u>40</u>	Transcript regarding Hearing Held on 3/5/19 at 2:03 PM RE: Plaintiffs Motion For Partial Summary Judgment. Remote electronic access to the transcript is restricted until 6/4/2019. The transcript may be viewed at the Bankruptcy Court Clerks Office. [Transcription Service Agency: Veritext Legal Solutions.]. (See the Courts Website for contact information for the Transcription Service Agency.) (RE: related document(s) <u>24</u>). Notice of Intent to Request Redaction Deadline Due By 3/13/2019. Statement of Redaction Request Due By 3/27/2019. Redacted Transcript Submission Due By 4/8/2019. Transcript access will be restricted through 6/4/2019. (Cales, Humberto) (Entered: 03/25/2019)
03/13/2019	<u>37</u>	Order Granting Plaintiff's Motion For Partial Summary Judgment (Related Doc # <u>24</u>) signed on 3/13/2019 (White, Greg) (Entered: 03/13/2019)
03/14/2019	<u>38</u>	Judgment signed on 3/14/2019. Judgment is entered against NYAM in the amount of \$675,000.00 plus interest. JUDGMENT INDEX NUMBER 19,0013 (related document(s) <u>37</u>) (Rouzeau, Anatin) (Entered: 03/14/2019)
03/14/2019	<u>39</u>	Notice of Judgment (related document(s) <u>38</u>) (Rouzeau, Anatin). (Entered: 03/14/2019)
03/26/2019	<u>41</u>	Notice of Appeal (related document(s) <u>37</u> , <u>38</u>) filed by Michael D. Hamersky on behalf of NYAM LLC. (Hamersky, Michael) (Entered: 03/26/2019)
04/09/2019	<u>43</u>	Statement of Issues Appellant's Statement of Issues and Designation of Record on Appeal Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (related document(s) <u>41</u> , <u>42</u>) filed by Michael D. Hamersky on behalf of NYAM LLC. (Hamersky, Michael) (Entered: 04/09/2019)
04/22/2019	<u>46</u>	Counter Designation (appellee) Appellees Counter-Designation Of Additional Items To Be Included In Record On Appeal And Certificate Regarding Transcripts Pursuant To Rule 8009 Of The Federal Rules Of Bankruptcy Procedure And Local Bankruptcy Rule 8009-1 filed by Beth E. Levine on behalf of David MacGreevey, in his capacity as Plan Administrator. (Levine, Beth) (Entered: 04/22/2019)